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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/055,672

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28107 7590 04/27/2004  
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EXAMINER

JONES, SCOTT E

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 04/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/055,672

Applicant(s)

NAMBA ET AL.

Examiner

Scott E. Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to the amendment filed on February 10, 2004 in which applicant amends claims 1, 3, 7, and 8, cancels claim 9, adds claims 10-12, submits a replacement drawing sheet for figure 2, amends the title and specification, and responds to the claim rejections. Claims 1-8 and 10-12 are pending.

### ***Drawings***

2. The drawing was received on February 10, 2004. This drawing is not acceptable. Although the content of the text of the correction is acceptable, "Bunting Direction And Position Alteration", the replacement drawing sheet is not accepted because the text used in the correction is not the same size or uniformly thick as the other text used in the drawing as required by 37 C.F.R. 1.84(l).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Lipson (U.S. 5,435,554).

Lipson discloses a system and method for realistically simulating a baseball game by utilizing game player's inputs to affect the real-world factors present in baseball. Lipson discloses:

Regarding Claims 1, 7, and 8:

- displaying a game image including a plurality of characters on a monitor screen of a computer (Fig. 3a);
- receiving input of contents of instructions based on a moving operation and a button operation made by the game player on a pointing device (Abstract, Figs. 1b, 2, 4b, 4c, 4d, 5b, 6a, column 3, line 45-column 4, line 8, column 4, line 61-column 5, line 22, column 6, line 51-column 7, line 12, and column 11, line 40-column 12, line 9); and
- proceeding a baseball game based on the input made by the game player; wherein in said receiving step, the designation of instructions for the pitching action of a pitcher character is accomplished by the operation of said pointing device when the game player's team is the defensive side, designation of instructions for the offensive action of a batter character is accomplished by the operation of said pointing device when the game player's team is the offensive side, and a selection of bunting or hitting as said offensive action is accomplished by a button operation of said pointing device (Abstract, Figs. 1b, 2, 4b, 4c, 4d, 5b, 6a, column 3, line 45-column 4, line 8, column 4, line 61-column 5, line 22, column 6, line 51-column 7, line 12, and column 11, line 40-column 12, line 9).

Regarding Claim 2:

- said pointing device has at least two buttons including a first button and a second button, and said selection of bunting or hitting is accomplished by performing different button operations on said first button and second button (Column 11, line 40-column 12, line 9 and Fig. 1b).

Regarding Claim 3:

- the designation of instructions for alteration of a height and an orientation of the bat character is accomplished by the moving operation of said pointing device in cases where bunting is selected as the offensive action of said batter character (Column 14, lines 17-35).

Regarding Claim 4:

- the operation regarding the alteration of the height and the orientation of said bat character is received after the pitching action of the pitcher character is initiated (Column 14, lines 17-35).

Regarding Claim 5:

- the degree of success of the batting action is judged in accordance with the degree of overlap of said bat character and said ball character and the orientation of said bat character when said bunting is selected (Column 14, line 36-column 15, line 7 and Fig. 4e).

Regarding Claim 6:

- further comprising the steps of setting parameters that define abilities for each batter character of said game player's team, and changing these parameters in accordance with said batting results and said pitching results (Column 8, lines 7-32).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipson (U.S. 5,435,554).

Lipson discloses to one of ordinary skill in the art that as discussed above regarding claims 1-8. However, Lipson seems to lack explicitly disclosing:

Regarding Claims 10, 11, and 12:

- receiving inputs for the game by the game player on a (computer) mouse.

However, regarding claims 10, 11, and 12, to one having ordinary skill in the art, utilizing a computer mouse for game player inputs into a video game was notoriously well known at the time of Applicant's invention. One would be motivated to utilize a computer mouse for game player inputs into a video game in order for a game player to enjoy a game without requiring the player to obtain a joystick, or other game input device, for a personal computer.

#### ***Response to Arguments***

7. Applicant's arguments filed February 10, 2004, with regards to the rejection to claims 1-8 under 35 U.S.C. 102(b) as being clearly anticipated by Lipson (U.S. 5,435,554), have been fully considered but they are not persuasive.

8. Applicant's argument, see pages 3 and 17, filed February 10, 2004, with respect to the objection to the title has been fully considered and is persuasive. The objection of the title has been withdrawn.

9. Applicant's arguments, see pages 3-5 and 18, filed February 10, 2004, with respect to objections to the specification have been fully considered and are persuasive. The objections of the specification have been withdrawn.

10. Applicant's arguments, see page 18, filed February 10, 2004, with respect to the objection to claims 3, 4, and 5 have been fully considered and are persuasive. The objection of claims 3, 4, and 5 has been withdrawn.

11. Applicant's arguments, see pages 6-11 and 18, filed February 10, 2004, with respect to the rejection to claims 1-8 under 35 U.S.C. 112, second paragraph have been fully considered and are persuasive. The rejection to claims 1-8 under 35 U.S.C. 112, second paragraph has been withdrawn.

12. Applicant's statement, see pages 11 and 18, filed February 10, 2004, with respect to the rejection to claim 9 under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter has been fully considered and is moot in view of the cancellation of the claim. The rejection to claim 9 under 35 U.S.C. 101 has been withdrawn.

13. Applicant respectfully traverses the rejection to Claims 1-8 under 35 U.S.C. 102(b) as being anticipated by Lipson (U.S. 5,435,554). Applicant alleges Lipson fails to disclose using a pointing device to alter the height of the bat when bunting. Applicant admits, however, that Lipson discloses a description of the vertical position of the batter's swing relative to the strike zone, and relates to the adjustment in the batting position in a vertical direction when swinging (Page 20 of the response). The examiner respectfully asserts a bunt attempt is a swing as defined in Lipson. In particular, Lipson discloses, "a player selects a particular type of swing...a normal swing, a power swing, and a bunt attempt (Emphasis Added) (Column 5, lines 16-22).

Furthermore, pointing devices (joysticks 16 and 18) are shown in figure 1b. Therefore, the examiner believes Lipson anticipates claims 1-8.

***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Thursday, 6:30 A.M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on (703) 308-1327. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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